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TITLE VI PLAN

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MONTANA
Department of Highways
Civil Rights Office

MONTANA DEPARTMENT OF HIGHWAYS

1982 TITLE VI PLAN REVISION

SUBMITTED: JUNE 30, 1982

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TITLE VI AND NONDISCRIMINATION PROGRAM

POLICY STATEMENT

Title VI, in its application, is specific to discrimination based on race, color, national origin or sex. In addition, there are laws which prohibit discrimination on a basis other than race, color, national origin, or sex. For this reason the program is referred to as the Title VI and Non-discrimination Program.

The policy of the Montana Department of Highways is to ensure that no person or group of persons shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any federal-aid program or activity administered by the Montana Department of Highways.

As the Director, I delegate the responsibility to assure the implementation of the Department Title VI and Nondiscrimination Program to all personnel directly involved with Title VI and related statutes compliance.

May 27, 1982
Revised Date

Gary J. Wicks, Director

A. PURPOSE

The purpose of this document is to define the organizational procedures the Montana Department of Highways will utilize to comply with the Federal regulations issued by the U.S. Department of Transportation concerning Title VI.

SCOPE

The Montana Department of Highways along with all sub-recipients of Federal-aid programs will follow the procedures outlined in this Title VI Plan to ensure the compliance of Title VI requirements.

AUTHORITIES

a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 d-d4)
b. Title 49, Code of Federal Regulations, Part 21
c. The Standard DOT Title VI assurances signed by each State pursuant to DOT Order 1050.2
d. Executive Order 11764
e. Title 28 CFR, Section 50.3
f. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621-4638, 4651-4655)
   (1) Title 49, C.F.R., Part 25
   (2) Federal Management Circular 74-8, Public Law 91-646
g. Title VIII (Fair Housing) of the Civil Rights Act of 1968, Amended 1974 (42 U.S.C. 3601-3619)
h. Section 136(b) of the Federal-Aid Highway Act of 1970 (23 U.S.C. 109 (D)
i. Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 324)
j. Subsequent Federal-Aid Highway Acts and Related Statutes.

B. DEFINITIONS

Affirmative Action - a good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.

Beneficiary - any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocatees, impacted citizens, communities, etc.

Citizen Participation - an open process where the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

Complaint - for the purposes of this document, a verbal or written allegation of discrimination or disparate treatment by any persons who are covered by Title VI or other nondiscrimination laws applicable to the Federal-aid highway program.

Compliance - a satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.

Deficiency Status - the interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI Program guidelines, but has not been declared in non-compliance by the Secretary of Transportation.

Discrimination - an act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex or national origin, has been excluded from participation in, denied the benefits of, or has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Federal Highway Administration under Title 23 U.S.C.

Noncompliance - a recipient's failure to meet prescribed requirements and showing an apparent lack of good faith effort in implementing all of the Title VI requirements.

Program - includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training work opportunities, health, welfare, rehabilitation housing, or other services, whether provided directly by the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Recipient - any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, possession, the District of Columbia, Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof.

C. ORGANIZATION

The Director of Highways has authorized the Manager, Civil Rights Unit to represent him in the day-to-day operations of all matters relating to Civil Rights. This includes the Title VI and Title VII Programs and the Minority Business Enterprises Program. The Director of Highways authorized the Chief, Construction Bureau, to represent him in the day-to-day operations of all matters relating to EEO Contract Compliance, and Labor Compliance programs.

The Director of Highways has the overall responsibility for assuring compliance with the Title VI assurances and total Civil Rights Program. In order to provide for effective and overall coordination of the Title VI Program, the Director of Highways has appointed the Manager, Civil Rights Unit and her EEO staff the responsibility to monitor and assist all Districts, Divisions, Bureaus, Sections, and Units in complying with their Title VI assurances.

D. FEDERAL-AID HIGHWAY TITLE VI PROGRAM

1. Title VI, 1964 Civil Rights Act/Programs of Nondiscrimination Background.

Pursuant to Title VI of the 1964 Civil Rights Act, representatives of each State Highway Agency, in 1964 through 1971, signed assurances obligating them to develop plans for programs to ensure nondiscrimination on the basis of race, color or national origin as a basis for continued receipt of Federal funds. A major problem encountered regarding program development is in taking the conceptual form of Title VI and translating the concept of nondiscrimination into a comprehensive integral component of the Federal-aid highway program.

Title VI and Nondiscrimination program application to the Federal-aid highway program include the following areas: Planning and Research, Preconstruction, Right of Way, Construction, Education and Training, Administration, and Materials.

Title VI, in its application, is specific to discrimination based on race, color and national origin. This point must be made implicitly clear to preclude a misrepresentation or a misapplication of statutuory reference. There are other laws, however, which prohibit discrimination on a basis other than race, color or national origin, which are discussed in the next section. For this reason the program is referred to as Title VI and nondiscrimination programs.

Coverage of the program is the most extensive of any of the Civil Rights programs. It covers virtually every citizen of the U.S. because every citizen either participates in or benefits from Federal-aid appropriation.

Effective program implementation will occur only when program managers, administrators and Bureau Chiefs become aware of how their programs may discriminate against others. Persons directly responsible for the nondiscrimination programs must also be knowledgeable of the entire Federal-aid highway program process implemented by the State Highway Administration.

2. Related Statutes

a. AGE - Nondiscrimination on the basis of Age in programs or activities receiving Federal Financial Assistance.
- Age Discrimination Act of 1975, 42 U.S.C. G101 et seq.
- Rules on Age discrimination in Federally Funded Programs-45 CFR 90.

b. HANDICAP - Nondiscrimination on the basis of handicap under Federal Grants and Programs.
- Section 504 - Vocational Rehabilitation Act of 1973.
- Rules on U. S. Department of Transportation Handicap Discrimination in DOT Federal-aid programs - 49 CFR 27.

c. SEX - Nondiscrimination in Federal Highway Administration assisted programs or activities on the basis of sex.
- 23 U.S.C. 324 - Prohibition of discrimination on the basis of sex.

d. The prohibition of discrimination in Federally assisted programs or activities on the basis of age, handicap and sex has its basis in statutory law but is distinct from Title VI. However, program implementation and administration are the same as Title VI.

There are many other protected classes (sub-elements/sub-population) covered by the Federal-aid highway program of nondiscrimination but are not under statutory preview. For example, 23 CFR 771.18(i)(2)(iii) which requires significant social impact be discussed in every environment impact statement, lists members of a sub-population which may be adversely and disproportionately affected by a proposed project. This regulation, in part states, "The following are examples of groups that may have special problems and require special consideration with respect to access to jobs, schools, churches, parks, hospitals, shopping and community services: elderly, school age children, those dependent on public transportation, handicapped, under the Vocational Rehabilitation Act; and racial or ethnic minority group members covered by Title VI of the 1964 Civil Rights Act."

The Secretary of Transportation has the authority to administratively remedy proven discrimination, which may include withholding Federal assistance from a recipient.

3. Title VI/Nondiscrimination - Application to Federal-aid Highway Program.

a. Program Reviews:
The Compliance Officer is responsible for conducting Title VI Compliance reviews and evaluations. These reviews will be scheduled annually to assure the Title VI Program is being effectively implemented. Title VI reviews will occur in the following Bureaus: Construction, Preconstruction, Planning and Research, Right of Way, Education and Training, Materials, and an overall review of Administration. Advance scheduling of reviews will occur. Division FHWA and DOH, Civil Rights Unit personnel will select two Bureaus and conduct in-depth reviews. The DOH will review the other five Bureaus for compliance. After all reviews are completed, a summary will be written by the Compliance Officer. If problem areas are pointed out in the course of the reviews, they will be brought to the Director's attention by the Manager, Civil Rights Unit.

The manager in each program area has the responsibility for conducting external Title VI reviews with the contractors, subcontractors, consultants, fee appraisers, property managers, etc. The Compliance Officer will monitor these actions by spot checking documentation, and occasionally accompanying Department personnel conducting external Title VI Reviews.

The manager in each program area has the responsibility, through the coordination of the Manager of the Civil Rights Unit and her staff, to properly administer the Title VI program within their Division or Bureau. Their duties entail, but are not limited to:

1. Internal review and evaluation of their Title VI Program.

2. Establishing a minority identification system.

3. Establishing a program to encourage the involvement of minority contractors, consultants, etc.

4. Inserting applicable notification in all proposals for negotiated agreements.

5. Providing technical assistance when requested by internal personnel and contractors.

6. Preparing reports as requested.

7. Presenting Title VI Policies and Procedures during Bureau or Division staff meetings.

Each Program area is required to keep files, and document all actions taken in regard to contacts made, records of achievement, and Title VI Program activities.

E. YEARLY GOALS AND OBJECTIVES

Goal:

1. The 1982 Title VI Program goal is: To continue improving the overall awareness of the Title VI Program with Department employees.

   a. The goal can be achieved through the following ways.

Objectives:

1. Conduct indepth classes on Title VI and its implications for the areas of Planning and Research, R/W, Preconstruction and Construction.

2. Actively monitor and assist Bureaus with their implementation of Title VI activites.

3. Assist Bureaus with problems as they occur on a day-to-day basis.

4. Monitoring of procedures will be done by the Compliance Officer. Semi-annual reports will be compiled concerning the monitoring functions utilized throughout the Department. Problems will be taken care of as they arise.

5. Conduct an in-depth annual review of two Bureaus for 1982 with FHWA and the DOH EEO representatives. The DOH will conduct annual

reviews on the other five Bureaus involved in Title VI compliance. This will differ from past procedures in that there will be no formal review meetings with the Bureaus.

The procedure for submitting questions to the Bureaus prior to the review will remain the same. Written reports will be submitted as in the past.

F. END OF YEAR REPORT of ACCOMPLISHMENTS

Note: Referenced throughout the Plan

G. COMPLAINTS

All Title VI Complaints filed with the Department will be reported to the Division FHWA immediately.

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MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
PLANNING AND RESEARCH TITLE VI PLAN

A. Compliance Procedure - Planning:

1. Consultant Selection - in an attempt to award a fair share of planning and research consultant contracts to minority and female consultant firms, the Bureau, in cooperation with the Consultant Selection Committee and in accordance with the adopted consultant selection procedures, will utilize the following for assuring Title VI compliance:

   a. Maintain a list of qualified planning and/or research consultants.

   b. Assure, through the consultant selection procedures mentioned above, the Requests for a Proposal (RFP) are publicized and solicited from qualified minority sources.

   c. In the development of the scope of services or RFP, where economically feasible, making allowances for dividing the work into smaller tasks permiting qualified minority or female firm participation. Such divisions will be contingent upon the size and scope of the work, as well as the qualifications of the firms being solicited.

   d. Encourage the prime contractor, through their own Title VI assurances, to take the same or similar steps outlined in a, b and c above.

2. Contract Development, Pre-award Requirements:

   a. The selected consultant is advised of the requirement for submitting an affirmative action plan prior to execution of the contract.

   b. The firm's affirmative action plan is reviewed. The review includes a study of procedures for soliciting and consideration of subcontractors. The plan is accepted when procedures meet appropriate standards.

   c. A list of current minority employees and their qualifications must be submitted.

3. Contract Monitoring:

   Title VI Reviews

   a. The consultant's work will be reviewed on a monthly basis. At that time, any new information concerning Title VI activities will be exchanged. Such monitoring will normally be conducted by the Planner assigned to the project. The Bureau's Title VI Representative will also monitor such activities in company with the Planner on a select basis depending on the type of project.

b. Depending upon the type and length of time for completing a project, the consultant will be reviewed at least once for Title VI compliance or on an annual basis for those projects of a longer duration.

4. Urban Transportation Planning:

Title VI Reviews
The compliance reviews described in the following sections will utilize both the Transportation Planner and the Title VI Representative. In the areas with formal planning activities it will be the responsibility of the assigned Transportation Planner to be fully aware of the Title VI activities in their particular area on a continuing basis. The annual review will be a more formal affair conducted with the assistance of the Title VI Representative. A prescribed review format will be followed with allowances for additional review as deemed necessary.

a. Small Urban Areas

Without a Formal Planning Process.
In those areas over 5000 population who are recipients of Federal-aid urban funds, compliance reviews will be conducted on a rotational basis. At least one area will be selected annually for a review. Areas will be asked, by the local elected officials, to provide an assurance that the development of their list of project priorities have taken into consideration Title VI requirements. The Montana Environmental Action Plan will provide further procedures for implementing Title VI considerations.

With a Formal Planning Process.
Title VI activities by the local agencies will be under constant surveillance during the development of a transportation plan. In addition, an annual review will be conducted to determine the effectiveness of the activities in at least two urban areas. As a minimum, the activities necessary to meet Title VI requirements will be included in the agreement and the scope of the Transportation Planning Project. These areas will be reviewed on a rotational basis.

b. Urbanized Areas

Title VI activities by the Planning and Research Bureau in these areas will be basically an information exchange and monitoring activity. The local transportation planning agency must, by agreement, include in their prospectus their plan for Title VI involvement on a continuing basis. It then becomes the responsibility of the Planning and Research Bureau to monitor the compliance of these activities as well as provide updated information as it becomes available. It is also necessary that the surveillance procedures allow for changing conditions in the basic socio-economic composition of the area. A prescribed review format will be followed with allowances for

additional areas of review as necessary. Each urbanized area will be reviewed comprehensively once every four years.

5. Rural Transportation Planning

Attachment F of the proposed Project Selection Process entitled "Social, Economic and Environmental Evaluation" (SEE), details procedures concerning the development of projects in rural areas. When approved, these procedures will supplement Title VI considerations outlined in the Montana Environmental Action Plan.

B. Compliance Procedures - Research

1. Project Selection - The Planning and Research Bureau maintains a file of highway/transportation topics for which current knowledge is limited.
These receive periodic consideration and ranking. Highly ranked topics are assigned priorities based on review of expected research costs and benefits. As funds become available under Part II of the Planning and Research Annual Work Programs, the research project of highest priority is added to the AWP.

2. Selection of Principal Investigator - All provisions of Section A, Paragraph 1 will be observed in a parallel fashion with respect to selection of research and research organization. Qualified researchers in Specific fields are in state universities or other tax supported agencies. Full compliance with the approved Affirmative Action Plans of those agencies will be required.

3. Contract Development - All pre-award provisions of Section A, Paragraph 2 will be observed for research contracts.

4. Contract Monitoring - Non-government organizations or private firms selected to conduct research projects will be reviewed for compliance at least once during the term of the contract or on an annual basis. Government organizations will be reviewed for compliance on an annual basis. Monitoring will be conducted by the Research Manager assigned to the project. The Bureau's Title VI representative will also monitor such activities in company with the Research Manager on a select basis depending on the type of project.

PLANNING & RESEARCH BUREAU
TITLE VI REVIEW FORMAT

PURPOSE:

To provide a basic format to assist the Planning and Research Bureau personnel in conducting reviews of local planning organizations or local agencies responsible for determining the use of Federal-Aid Highway funds to be expended for various purposes in their area of jurisdiction. The review is not to be limited to the format described below. The wide diversity of local planning agencies requires a basic format that can be tailored to individual agency requirements.

The same format, where applicable, will be used for consultant firm reviews. In all probability, a separate format will be developed at a later date as experience is gained through the use of the format described herewith.

In those urbanized areas having a developed affirmative action plan, the review will be conducted on the basis of compliance to their own plan as well as to the procedures included in the Department of Highways compliance procedures.

A. Urban-Rural Transportation Planning

1. Determine the extent local planning or local elected officials have gone through to determine the following:
   a. What is the total minority population in their area of jurisdiction?
   b. What is the type of minority population (Indian, Hispanic, etc..)?
   c. Where are the locations and concentrations of minority population within their areas of jurisdiction?
   d. What other statistics are available concerning income levels, travel habits, goals, objectives and desires of minorities?
   e. To what extent is the data discussed above used to determine the system and priority of projects in the area?

2. Determine the efforts to involve minorities in the planning process as follows:
   a. What means are used to communicate with minorities?
   b. Are public notices or information disseminated that would be of interest to these groups?
   c. Are there any special emphasis programs in effect?
   d. Have any other attempts been made to elicit citizen involvement in the transportation planning process?
   e. Have any meetings or communications been made concerning the impact of planned systems and routes upon both minority and nonminority areas?
   f. Have any minorities expressed a need for transportation improvements either short range or long range?

B. Consultant Services - (local awards)

1. Determine the extent of solicitations of minority and female contractors for planning and design projects as follows:

   a. Is a list of qualified consultants maintained?
   b. Are Requests For Proposals (RFP's) publicized and are proposals solicited from qualified minority sources?
   c. Is the work to be performed separated into smaller tasks to permit qualified minority or female firm participation?
   d. Are the prime contractors encouraged to subcontract with minority contractors when a subcontract is desirable?

2. Identify the number of projects held by minority firms and the dollar amounts involved in the contracts.

3. Do contracted firms have affirmative action plans, and detailed procedures for procurement and contracted services?

4. Contract Monitoring - Non-government organizations or private firms selected to conduct research projects will be reviewed for compliance at least once during the term of the contract or on an annual basis. Government organizations will be reviewed for compliance on an annual basis. Monitoring will be conducted by the Research Manager assigned to the project. The Bureau's Title VI Representative will also monitor such activities in company with the Research Manager on a select basis depending on the type of project.

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MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
PRECONSTRUCTION BUREAU

A. Consultant Contracts

1. The Department has a standard procedure for the selection of consultants which covers Title VI Assurances. In all consultant contracts we include Title VI assurances and search for and identify in-state minority consultants to be considered for selection as appropriate. The Department requires all consultant agreements contain provisions and stipulations calling for compliance with Title VI. The Department has, and will continue to advise the consultants they have a duty to see that all qualified applicants are employed and treated equally during employment without regard to race, color, religion, sex, national origin or age. If one of our consultants engages the services of a subcontractor, the subcontractor is obligated to the same Title VI compliance provisions. New contracts provide for the consultant to monitor and report on compliance of Title VI for any subcontractors. We make an annual review to determine the consultant's compliance with Title VI as the agreement progresses. Documentation relative to the consultants' compliance with Title VI Provisions are kept on file in the Preconstruction Bureau. Personal visits and inquiries are made by department employees to the consultants throughout the year to monitor Title VI compliance.

2. The Department has a written procedure entitled "Consultant Engineering Services" for the selection of consultants. These procedures were reviewed and updated January 20, 1981.

3. The procedures do not discourage involvement of minority consultant firms.

4. Information on how a consultant firm is selected is referenced to "Consultant Engineering Services" procedure.

5. The Preconstruction Bureau maintains a current list of acceptable consultant firms. Each consultant firm's field of expertise is known and also whether they are minority firms. Steps taken by the Department to locate minority or female consultant firms are through media advertising, professional organizations, local search and close liason with the Minority Business Enterprise Manager. This list was updated in November of 1981.

6. Consultant firms may be added to the Department's list of acceptable firms by submitting necessary information relative to experience and qualifications (Standard Form 254, General Services Administration).

7. Information as to who is responsible for selecting a firm or firms for particular contracts is referenced to "Consultant Engineering Services" procedure.

8. Consultant firms selection of subcontractors on a nondiscriminatory basis is referenced to "Consultant Engineering Services" procedure.

B. Public Hearings

The Department ensures all persons, including minorities are entitled to participate in public meetings and hearings. This is done by advertising the meetings in papers circulated in the area where the hearing is to be held. Also, we issue news releases to local radio and television stations for coverage in the affected areas.

In instances where Indian land is involved, notice of the hearing is sent to the Tribal Council and Council newspapers that we are aware of. A list of minority newspapers is kept so they can be notified in appropriate instances. When there is a project affecting Indians or Indian lands, we have a separate meeting either just before or just after the regular public hearing. This is a program in which we encourage minority groups to meet with Department personnel to express their feelings about a project affecting them.

The Department feels we are achieving a certain degree of success through this program, and will continue to conduct them. Following public hearings, all incoming comments are analyzed and consideration given to all problems.

1. Formal Hearing Results

   a. Public hearings are held in locations reasonably convenient for minority participation. If distances are a factor the hearings may be held in more than one location.

   b. Hearings are advertised in local newspapers, and on radio and television stations for coverage in the affected areas. Information is also sent by direct mail to individuals affected.

   c. Minorities are invited to attend public hearings through direct mailings to individuals, their organizations and councils. (Also by advertisement in known minority newspapers).

   d. Questions and objections are analyzed and consideration given to all problems on an equal basis, regardless of race, color, sex, national origin or age.

   e. Information regarding hardship acquisition is available at all public hearings.

   f. Information regarding fair housing requirements are discussed at all public hearings.

   g. If communications or language barriers are evident, every effort will be made to overcome the language barrier.

h. Sufficient time is allotted to reasonably answer questions by persons attending the hearings.

C. Location

The Department reviews alternate corridor locations to ascertain the affect of the location on minority groups and low-income neighborhoods. The normal procedures begin with land use studies, narrative right-of-way reports, public hearing reactions, environmental statements and associated feedbacks. In the planning of such corridors the neighborhoods affected are given opportunities to learn and comment on possible locations. Minority neighborhoods are given consideration during corridor studies by land use studies, right-of-way investigations and narrative reports about social and economic effects. Also, meetings are arranged with civic groups, local officials and individuals who are concerned or involved.

We have included multiple use procedures in our location and design study reports consistent with our approved Action Plan. We also assume a lead role in initiating and unifying cooperation by other agencies or governmental bodies in the development of facilities beneficial to specific neighborhoods, cities and towns. The design study report reviews the location and environmental data, establishes the detail alignment criteria, and develops the final design. When the design status of the projects are in the final stages, the opportunity for a design public hearing is provided. This assures the Department of Highways and the public a continuing dialogue is established. This will assure that decisions reached are in the best overall public interest. Expressions of concern for potential Economic, Social and Environmental Impacts are fully evaluated prior to the decision. It is Department of Highways policy that significant developments or changes in plans will be made available to the public as they occur. Further, it is the policy that personnel of the Department are available to interested groups and individuals to discuss all phases of the projects of which they have concern. These policies are designed to assure the established dialogue is a continuing one.

1. The approximate number of persons by race and families affected by each alternate location is referenced to the "Narrative Right-of-Way Report".

2. The social and economical character of the area through which alternates pass includes (1) levels of income, (2) whether the area is commercial or residential, (3) and the approximate number of minority owners of business and residences in the area. These are referenced to the "Narrative Right of Way" and "Land Use Study" reports.

3. The racial character of the people employed in the area affected by each alternate is referenced to the "Narrative Right of Way" and "Land Use Study" report.

4. Racial and ethnic data is used to identify possible problem areas and adverse impacts, such as (1) relocation difficulties, (2) possible changes in minority income capabilities, (3) mobility, or

(4) community cohesion. Assistance for the above mentioned problems is available through the Right-of-Way Bureaus' relocation assistance procedure.

5. Input from minority communities for planning goals and needs are given equal consideration regardless of race, color, national origin, sex, or age.

D. Design

1. Grade lines, safety considerations, cross-street treatment, pedestrian overpasses, and other design features are established for all alternatives to the same degree in minority areas as in nonminority areas.

2. Access to and from the various alternatives are considered without discrimination.

3. Effects of traffic volumes for the various alternatives is given equal consideration in minority areas as in nonminority areas.

4. Aesthetics, noise, and air quality on each alternate is considered without discrimination.

5. Information in the form of (1) plans, (2) locations and design study reports, (3)environmental impact statements, (4)and display boards are available at public hearings and to individuals requesting this information on a nondiscriminatory basis.

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MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
RIGHT-OF-WAY BUREAU

It is the policy of the Right of Way Bureau that no persons shall be discriminated against or denied the benefits of -- or participation in -- any of the activities of the Right-of-Way Bureau including, but not limited to appraisal, appraisal review, appraisal contracting, negotiations, administrative settlements, advance acquisition, relocation assistance payments and services, property management, and sale of excess lands. All Right-of-Way functions are covered by uniform, detailed operating procedures contained in the Right- of-Way Manual and are applicable to all acquisitions on all systems.

A. General

The Right-of-Way Bureau has greater contact with the public than any other highway bureau. The activities of the Bureau are guided by carefully developed procedures and documented through uniform reporting procedures. Adherence to established operating procedures generally assure no discriminatory practices will occur. It is only through a genuine sense of pride in job performance and empathy for the affected property owner that fair and equitable treatment can be achieved.

B. Preliminary Right-of Way Studies

All preliminary studies are completed by Right-of-Way Bureau personnel. Studies include gathering information on ownerships, cost estimates, social and economic impacts, 4F involvement (public owned lands used for public parks, recreation area, wildlife refuge, etc.) and relocation assistance.

All preliminary studies are reviewed by Helena Office Right-of-Way personnel for possible project impacts on minorities and non-minorities.

C. Appraisals

Appraisal assignments are made on the basis of need, qualifications, and demonstrated appraisal ability to both staff and fee appraisers. All appraisers must submit an appraisal history with each report. These indicate whether the parcel belongs to a minority or not and notes the observed income of the individual. This is the first information as to whether or not the property to be acquired belongs to a minority or non-minority.

Real estate value determinations are derived through generally accepted appraisal practices based on real estate transactions under the free market system. The completed appraisal is submitted to the field review appraiser for review, which includes viewing the property and talking to the property owner. When the field reviewer has completed reviewing the appraisal, it is forwarded to the Helena headquarters. It may again be reviewed by another individual who may also inspect the property.

1. Fee Appraisers

Fee appraisers, when needed, are employed without regard to race, color, sex, national origin or age. In Montana, there currently are no known minority fee appraisers, none have been pre-qualified, and on the Department's list of approved appraisers. Any contract with a fee appraiser states any member of a minority group must be given equal opportunity to perform the services needed to complete the appraisal. All contracts for fee appraisers and fee attorneys contain the clauses set forth in Appendix A of the Civil Rights Assurances.

D. Negotiations

Negotiations are handled exlusively by staff negotiators. Negotiators are under the constant supervision of the field supervisor as well as the supervisory personnel of the Helena headquarters. They are required to conduct the negotiations on the approved appraisal and have no authority to vary the offer. A negotiation history is submitted for every contact with the owner. This history identifies whether the parcel belongs to a minority or not, and the person's or family's observed income. The completed negotiation is reviewed in the field as well as the Helena headquarters. This assures everyone is treated equally and has received the amount of the approved appraisal for the property. Where conditions dictate, because of language barriers, age, or other factors, interpreters, relatives or friends are employed to aid the property owner in understanding the Department's proposed action.

1. Administrative Settlements
Administrative settlements are made only in unusual circumstances based on information from the field. Any settlement made on this basis is fully documented and approved by Helena headquarters before the offer is made. It is then submitted for final review as a regular negotiated parcel.

2. Advance Acquisition
The Department of Highways may, in certain situations, acquire rights of way on an advance acquisition for protective buying or hardship cases. Special and specific authorization is required from FHWA for all advance acquisitions. If information gathered indicates the parcel will be wholly or partially within the proposed right of way of the new project, and meets the required criteria, it is acquired by regular acquisition procedures. Circumstances surrounding the request determine the approval or rejection of the request and not who makes the request. The regular appraisal or negotiation histories indicate if the owner is a minority and his/her observed income.

E. Relocation Assistance Payments and Services

The benefits of the Relocation Assistance Program are fully explained and offered equally to all relocatees in a number of ways

(1) public hearings, (2) relocation brochures, (3) individual mailings, (4) newspaper ads, and most important, (5) personal contact. Personal contact at the time a relocation plan is being prepared, during negotiations, and the actual displacement provides maximum opportunity for assistance based on the relocatee's particular needs. Histories are maintained of each contact and identifies whether the displacee is a minority or not and observed income of the individual or family.

Advisory assistance is provided to all displacees. This includes any and all help required to relocate the displacee into replacement housing, moving personal property, etc. This assures the displacee is relocated in a timely and humane manner.

The relocation program is often referred to as our "people program." All relocation agents are trained and versed in understanding the relocatee's needs and how to best meet those needs under the relocation regulations. Genuine rapport with, and affinity for, the relocatee is the trademark of the relocation agent. Relocation assistance is handled by staff relocation agents and no fee agents are hired.

F. Property Management

When excess lands (where Federal monies have been used in the original acquisition) are sold, the deed conveying the land contains a non-discriminating covenant running with the land. All lands are sold in a manner required by State statutes and are offered for sale to the general public through the bidding process.

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MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PROGRAM
CONSTRUCTION BUREAU

Rev'd. 01/28/82

PURPOSE:

This program is intended to ensure the Department's Compliance with Title VI provisions of the Civil Rights Act of 1964. The guidelines set forth in FHPM 6-4-1-6 are used to assure effectiveness.

Furthermore, this program prescribes procedures relating to Federal-aid highway projects, from the time the proceed to work order is issued, to the time of final acceptance by the Federal Highway Administration.

Through this Program, Minority Businesses who are interested and qualified to become involved with this industry can do so if they desire, without discrimination.

A. Applicability:

The following policies, requirements and procedures apply to all Federal-aid highway projects administered by the State of Montana, Department of Highways, Construction Bureau.

B. Method of Construction:

1. The Department of Highways assures opportunity for free, open and competitive bidding by adequate advertisment in local newspapers, minority newspapers and those newspapers having major circulation throughout the State (see advertisement Section F).

2. Contracts are awarded to prequalified and successful low bidders provided the successful bidder is staffed and equipped to perform the work satisfactorily and economically.

C. Construction Bureau Supervision:

1. The Construction Bureau assures proper performance of the work and all contract provisions set forth by State and Federal requirements. All projects receive the prescribed amount of supervision and inspection to ensure conformity with approved plans and specifications.

D. Minority Business Participation:

1. The Construction Bureau and the Minority Business Enterprise Manager, who is with the Departments Civil Rights Unit, work together to assure minority participation.
   a. The Construction Bureau and its five Districts throughout the State actively seek minority businesses on a continuing basis. Minority firms or persons, who are found and interested in

becoming involved with the Department, are referred to the M.B.E. Program Manager.

b. Upon request, the M.B.E. Program Manager explains to those interested upon the procedures and requirements, and also offers technical assistance for specific areas felt needed. These areas consist of (1) prequalification requirements and forms, (2) licensing, (3) bonding, (4) financing and accounting, and (5) assistance for bid preparation.

c. Periodic orientation meetings are held as needed for minority businesses. Arrangements are made with consultants by the Department for presentations within their areas of expertise.

d. A minority business directory is developed and maintained by the Department listing minority firms and their particular type of business. The directory is being updated on a continual basis and is distributed throughout the Department Heavy Highway Construction Industry, City, County, State and Federal Agencies and private industry.

2. In accordance with Title VI of the Civil Rights Act of 1964 and Executive order 11625, the Department encourages minority participation. Contract lettings provide various sizes of projects to assure opportunity for all sizes of contracting firms to compete.

3. Upon FHWA acceptance and approval, the Department of Highways will implement the provisions set forth in Federal Register, 49 CFR, Part 23, pertinent to Minority Business Enterprise as written in the State of Montana, Department of Highways Minority Business Enterprise Program.

E. Prequalification

1. The State of Montana requires ALL contractors desiring to contract or subcontract work over $25,000 to be prequalified, thus establishing a performance rating prior to bidding.

a. Performance questionnaires (Form PQ-59) must be completed and submitted by the contractor seven (7) days in advance of a bid letting.

b. A performance rating is given the contractor after the prequalification board, (comprised of five DOH officials), has reviewed the contractor's experience, equipment and financial status.

c. A compilation report is necessary for a possible rating up to $250,000.00; a review statement is necessary for a rating up to $500,000.00; and, a full opinion or a qualified opinion is necessary for a rating over $500,000.00.

d. In order for the contractor to be identified as a minority, the Construction Bureau makes a notation on the exterior of the confidential prequalification form. This identification is done for statistical purposes only.

e. Minority contractors are mailed a letter -- prior to expiration of prequalfication -- reminding them of the upcoming expiration date.

f. Two members, one from the Construction Bureau and one from the Civil Rights Unit, review minority applicants' prequalification statements, should they be rejected.

To date there have not been any minority applicants rejected.

2. No procedure or requirement for prequalification, qualification, or licensing of contractors shall be approved which, in the judgement of appropriate State or Federal officials, may operate (1) to restrict competition, (2) to prevent submission of a bid by, or (3) to prohibit the consideration of a bid submitted by any responsible contractor, whether resident or non-resident of the State wherein the work is to be performed. No contractor shall be required by law, regulation or practices to obtain a license before they may submit a bid on Federal-aid projects or before that bid may be considered for award of a contract. This, however, is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract as such requirements are consistent with competitive bidding. Prequalification evaluation includes consideration of the contractor's experience, personnel, equipment, financial resources and performance record.

F. Advertising for Bids:

1. All Federal-aid projects, after receiving the required authorizations, are advertised for bids. Advertising is conducted in accordance with State and Federal laws, specifications, regulations and policies and those directives implementing Title VI of the Civil Rights Act of 1964. The preceding procedures assure free and adequate competition.
   a. A four (4) week advertising period is provided for bidders.
   b. Advertising is conducted in two ways:
      1. General Notice - this is a concise notice mailed to over 800 interested parties (for example, Contractors, subcontractors, suppliers, etc.) free of charge. This notice provides sufficient information to prospective bidders enabling them to determine whether they are sufficiently interested to secure a set of bidding documents.
      2. Legal advertisement - this is a brief notice placed in the legal advertising section of the local newspaper in the county where the work is performed. When a project is on or near an Indian Reservation, advertisement is in the local tribal newspaper. In addition, legal advertising of ALL projects proposed for letting are placed in the Billings Gazette and Great Falls Tribune.
   c. Addendums - Should questions or problems arise after contractors, subcontractors, manufacturers, suppliers, etc. receive the bidding documents, the Department will issue addendums no later than one (1) week, but preferably ten (10) days before bid opening.

G. Bid Letting:

1. Bidding procedures for federally assisted projects are conducted nondiscriminately. Recognition is given to all qualified bidders regardless of State boundaries and without regard to race, color, sex, national origin or age.

A contractor is not required to be licensed by the State of Montana to submit a bid. They are, however, required to acquire a license prior to performing any work.

A proposal guarantee of 10% of the bid amount, in the form of cash, cashiers check, certified check, bank money order or bank draft, must accompany the contractors bid proposal. A bid bond executed by a surety authorized to conduct business in the State of Montana is also acceptable.

2. Each bid delivered shall be publicly opened and read at an established time and place. If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the letting.
3. Anti-collusion Certification forms in accordance with Title 23, United States Code, section 112(c) are required in all bids and are filed with the Department prior to the award of the contract.

H. Review of Bids

1. After the bids have been publicly opened and read, they are reviewed to see if they meet the appropriate requirements of Section 2 of the Standard Specifications, and shall be specifically checked for the following:
   a. Minority Business Enterprise Certification must have the corporate seal and signature.
   b. Equal opportunity clause certification (only on bids over $10,000.00).
   c. Anti-Collusion Certification
   d. Quantity Sheets
   e. Signature Sheet

2. After the above check has been completed on all of the projects in the letting, a comparison sheet is completed.

I. Award of Contract

1. The State Highway Commission, non-discriminatingly, will award or reject bids based upon information furnished as the result of the review of bids and in accordance with Section 3 of the Standard Specifications. Concurrence in awards by FHWA is required on all Interstate Projects.

2. Award Sheets are furnished free of charge to interested parties upon request.

J. Subcontracts:

1. Contractors participating in highway construction contracts for the Montana Department of Highways may not discriminate in their selection and retention of subcontractors. Required Title VI Contract Provisions (Department of Transportation, Title 49, Code of Federal Regulations, Part 21), are incorporated in all federal-aid contracts by the insertion of Form PR-1273 and by EEO Special Provisions, to ensure non-discrimination in a prime contractor's selection of subcontractors.

2. The contractor shall not assign more than 50% of his potential earnings, nor transfer, convey or otherwise dispose of his right, title or interest therein to any other person, firm or corporation without the written consent of his surety and of the Montana Highway Commission. The above provision with other rules and regulations governing the subletting of contracts are stipulated in Article 08.01 of the Montana State Highway Commission Standard Specifications for Road and Bridge Construction dated October 1, 1970.

3. A subcontractor must be licensed and prequalified to perform work on highway construction contracts for the Montana Department of Highways. By virtue of prequalification, they must therefore exhibit those qualities regarding adequacy of staff, equipment and experience as may be necessary to perform the work.

4. All requests for permission to sublet any portion of the work must be presented in writing from the prime contractor. Although there is no state form, most subcontracts are received on a standard AGC Subcontract Agreement.

5. As indicated, the choice of subcontractors to be utilized on highway construction contracts is a prime contractor's decision that must be approved by the Department of Highways, through its Construction Bureau. The Department of Highways through its Construction Bureau assures there will be no discrimination in the approval of subcontract requests. The Equal Employment Opportunity and Title VI responsibilities contained in the contract are also attached and made a part of all subcontracts. These attachments are designed to further the provision of equal employment opportunity and non-discrimination to all persons without regard to their race, color, religion, sex, national origin, or age and to promote the full realization of equal opportunity through a positive, continuous program.

K. Utility and Force Account Agreements:

1. All utility agreements contain the following statement: "The utility, for itself, its assignees and successors, hereby convenants and agrees it is fully aware and apprised of Title VI of the Civil Rights Act of 1964, 78 Sta. 252, 42 U.S.C. 2000d to 2000d-4 and Title 15, Code of Federal Regulations, Part 8, issued in implementation to said Act. The utility further convenants and agrees it will fully comply with said Act and the Regulations of the Department of Transportation issued thereunder, which Act and Regulations are herein incorporated by this reference and made a part hereof."

2. All Railroad Agreements contain the Regulations relative to non-discrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21.

3. The Department of Highways Utility Section is responsible to assure Title VI Provisions are included in all agreements and contracts processed in their section.

4. All Force Account Contracts will contain the U.S. Department of Transportation regulations, Title 49, Code of Federal Regulations, Part 21.

5. All purchase orders for materials and supplies purchased by the Department of Highways or through contracting agencies performing work on Federal-Aid Projects are required to have the U.S. Department of Transportation Regulations attached. (Title 49, Code of Federal Regulations, Part 21).

L. Reports and Records:

1. Annual meetings are held by the Construction Bureau with all Districts to monitor Civil Rights and Title VI of the Civil Rights Act of 1964. Districts are also subject to review by the Civil Rights Unit upon notice.

2. The Construction Bureau requires reports annually from each of the five Districts indicating their efforts and results of efforts toward seeking and encouraging Minority Businesses.

3. If problems are detected, they are addressed through the Construction Bureau by appropriate persons.

4. Records are maintained by the Construction Bureau for immediate and future reference, regarding progress or lack of progress.

5. The Construction Bureau will make annual reports to the Civil Rights Unit.

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MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
SAFETY AND TRAINING BUREAU

EDUCATION & TRAINING:

The training for the Montana Department of Highways is managed by the Training Section of the Safety and Training Bureau and covered by the DOH Training Policy 3-0800 3-03-1982.

It is the policy of the Department of Highways Training Section that no person shall be discriminated against, denied the benefits of, or participation in any activities offered as education and training.

A. NHI General

The Montana Department of Highways provides for equal opportunity participation of minorities and women in all educational and training programs, including the National Highways Institute (NHI). The criteria for employee enrollment is based solely upon the content of the course being related to the employee's job.

B. NHI Sponsorship

Any course offered by NHI and requested by MDOH Division Administrators or District Engineers will be made available when possible. The Division/District requesting the course is given first priority in selecting persons to attend. Other agencies are given the opportunity on a "first come -- first serve" basis for any remaining openings for the course. When the NHI course offerings are sent to Division Administrators and/or District Engineers, they will be reminded the participants are to be selected on a nondiscriminatory basis.

C. NHI Contracting

The MDOH does not contract with any persons, firms, or corporations for NHI training. However, we may contract for employee training. The Federal Highway Administration has provided financial assistance for these programs. The areas of Preconstruction, Maintenance and Construction have taken advantage of MDOH and Montana State University employee training programs.

D. NHI Course Selection

MDOH selects NHI courses from NHI announcements received from the Federal Highway Administration. The MDOH is not involved in proposing NHI educational and training programs oriented toward minority and female advancement in highway programs either directly or indirectly.

E. NHI Participants

Information concerning the number and type of positions held by minorities and women in Institute sponsored programs may be secured from the training and tracking file system managed by the MDOH training section.

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MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
CENTRALIZED SERVICES DIVISION

A. Administration

Executive Order 11246 applies to Montana Department of Highways' employees. Title VI of the Civil Rights Act of 1964 only applies to Montana Department of Highways agency employment when discriminatory employment practices adversely affect the delivery of program services.

1. The Department has identified minority and women employees by race, color, sex, or national origin, inclusive of job title and classification, to the extent necessary to evaluate and/or ensure equality of opportunity for and nondiscriminatory treatment of beneficiaries. Reference: EEO Highway Employee List.

2. Existing procedures which provide for assurances of Title VI compliance with and by contractors, vendors, and suppliers, i.e., contracts and procurement, requisitions through state purchasing, planning, and supportive services are referenced to Preconstruction, Construction, and Planning and Research's portion of this Title VI Plan.

3. Civil Rights requirements contained in contractural agreements are referenced to: Consultant Selection and Negotiation Procedures.

4. Existing procedures are oriented to ensure minorities and women will receive equal considerations for participation in research contractual awards in accordance with Title 49 CFR, Contractual Awards: Consultants.

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PROCEDURE

MATERIALS BUREAU, MONTANA DEPARTMENT OF HIGHWAYS

PROFESSIONAL FABRICATION TESTING, INSPECTION AND ENGINEERING SERVICES

AUTHORITY: This procedure has been prepared by the Supervisor, Quality Control Section-Materials Bureau; the Manager, Civil Rights Unit and the Compliance Officer, Civil Rights Unit; the Supervisor, Physical Testing Section-Materials Bureau, and the Chief-Materials Bureau.

PURPOSE: To establish, as an equal opportunity employer, the procedure for selection of professional fabrication testing, inspection and engineer services; monitoring, review and acceptance of the services; and development and maintenance of a list of pre-qualified professional fabrication, testing, inspection and engineer agencies for conformance with the procedures established in FHPM 1-7-2.

PROCEDURE:

SELECTION OF PROFESSIONAL FABRICATION TESTING, INSPECTION AND ENGINEER AGENCIES

(PFTI&E)

FOR FABRICATION INSPECTION

Responsibility	Action
Chief-Materials Bureau	1. Determines a need for fabrication inspection services.
Supervisor, Physical Testing Section	2. Supervises selection and administration of inspection services.
Supervisor, Quality Control Section	3. Requests a source of materials supply list from contractors and subcontractors upon receipt of the project awards and concurrences, and subcontract approvals.
	4. Determines from the source of supply list the extent and place of fabrication of materials requiring fabrication inspection.
	5. Reviews, potential PFTI&E agencies who are, or appear qualified to perform the services under consideration in accordance with the best qualification information available. (Please refer to items 13-17)

Responsibility	Action
Materials Supervisor, Structural Steel	6. Reviews structural steel plans and special provisions to determine and verify fabrication and inspection requirements.
Supervisor, Quality Control Section	7. Requests, on a project by project basis, fabrication inspection estimates from at least two qualified PFTI&E agencies based on: a. Project plans and proposals. b. Special provisions of the project contract. c. Fabrication and inspection d. Manufacturer's fabrication schedule. e. Fabrication plant location. f. Agencies' yearly schedule of testing and inspection charges if applicable. Exceptions to the minimum of two estimate requests may be justified based on: a. Urgency of installation. b. The service is only available from a single source. c. When an existing contract is in force at a fabrication plant and additional work is required due to another project, the existing contract may be re-negotiated to cover the additional work. d. Small quantity or minor cost items such as guard angles, ice plates, and pier nose angles, etc., not to exceed approximately $1,000.00.
	8. Reviews and approves all inspection estimates which are generally awarded to the lowest bidder. If the lowest bidder is not accepted, the reasons are documented.
	9. Notifies awardee of acceptance, and remaining agencies of rejection of estimate: a. Assigns awardee an inspection authorization number for that particular arrangement. b. Advises awardee, in writing, of the Title VI obligations. (All private PFTI&E agencies sign a legal document stating their compliance with Title VI.)

Responsibility	Action
	c. Notifies fabricator, contractor, and Department of Highways Construction Division of agency selection.
	10. Reviews all fabrication inspection reports, test reports, certifications and invoices for conformance to specifications and adherence to rates and fabrication schedules.
	11. Maintains progress reports, files, and ledgers on services and costs.
	12. Requests a certification of the Title VI Compliance from the inspection agency to be submitted to the Materials Bureau upon completion of the inspection service.

RECRUITMENT AND MAINTENANCE OF A LIST OF PREQUALIFIED PROFESSIONAL FABRICATION

TESTING, INSPECTION, AND ENGINEERING SERVICES

Responsibility	Action
Supervisor, Quality Control Section	13. Advertises for fabrication inspection services in accordance with requirements contained in Attachment O of OMB Circular No. A-102. a. Places yearly invitations in the "Engineering News Record" to solicit PFTI&E agencies to bid on highway fabrication projects. b. Searches, by means of professional publications, for any out of state minority PFTI&E agencies in order that they may be eligible for review and consideration during the agency selection process. 14. Reviews portfolios of interested PFTI&E agencies for qualifiifations and consideration during the agency selection process with the Supervisor, Physical testing Section and the Materials Supervisor, Structural Steel. 15. Obtains, on a yearly basis, a schedule of maximum inspection and testing charges from all qualified agencies for purposes of cost comparison, and to establish cost guidelines. 16. Maintains a file on qualified PFTI&E agencies, with particular attention to minority firms, based on experience, past performance, portfolios, and listings in the American Council of Independent Laboratories.

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